

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BRIAN K. JOHNSON,)	CASE NO. C08-0232-RSM-MAT
)	
Plaintiff,)	
)	
v.)	ORDER DENYING PLAINTIFF'S
)	PENDING MOTIONS
KING COUNTY JAILS, et al.,)	
)	
Defendants.)	
_____)	

This is a civil rights action brought under 42 U.S.C. § 1983. Currently pending before the Court are plaintiff's motion for default judgment and plaintiff's motion for an order striking defendants' answer to the amended complaint. The Court, having reviewed these motions, and the balance of the record, does hereby find and Order as follows:

(1) Plaintiff's motion for default judgment (Dkt. No. 17) is DENIED. Plaintiff asserts in his motion for default judgment that defendants have refused to answer his complaint and have therefore admitted guilt. Plaintiff's motion for default was received by the Court on Friday, June 13, 2008, the date defendant King County's answer was due. Defendant King County filed its answer on Monday, June 16, 2008.

01 The Ninth Circuit has made clear that default judgments are generally disfavored, and that
02 cases should be decided on the merits whenever reasonably possible. *Eitel v. McCool*, 782 F.2d
03 1470, 1472 (9th Cir. 1986). While defendant King County's answer was technically untimely,
04 plaintiff does not demonstrate, nor does he even argue, that he suffered any prejudiced as a result
05 of this very minor delay. This action will proceed.

06 (2) Plaintiff's motion to strike defendants' answer (Dkt. No. 21) is DENIED. The
07 argument sets forth by plaintiff in his motion to strike is not entirely clear. However, he appears
08 to assert that defendants' answer is both legally insufficient and untimely and should therefore be
09 stricken. The Court has reviewed defendants' answer and finds nothing improper in either the
10 form or the content of that pleading. The Court has already addressed the timeliness issue.

11 (3) The Court notes that it has received three documents from plaintiff in relation to
12 his pending motions and that none of these documents was apparently served on counsel for
13 defendants. Plaintiff is advised that all future documents submitted to the Court for consideration
14 must be accompanied by proof that they have been served on counsel for defendants. Any
15 documents which are not accompanied by the requisite proof of service will be immediately
16 stricken from the record.

17 (4) The Clerk shall send copies of this Order to plaintiff, to counsel for defendants, and
18 to the Honorable Ricardo S. Martinez.

19 DATED this 17th day of July, 2008.

20 
21 Mary Alice Theiler
22 United States Magistrate Judge